

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Elections and Civic Affairs, to which was referred House Bill No. 1407, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between lines 8 and 9, begin a new paragraph and insert:
2 "SECTION 2. IC 3-5-2-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Ballot card" refers
4 to ~~either a punch card ballot or~~ an optical scan ballot.
5 SECTION 3. IC 3-5-2-4.5 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. "Ballot card voting
7 system" refers to ~~either a punch card voting system or~~ an optical scan
8 voting system."
9 Page 1, line 15, strike "booklet, pamphlet, or other".
10 Page 1, after line 17, begin a new paragraph and insert:
11 "SECTION 5. IC 3-5-2-31 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. "Marking device"
13 means:
14 ~~(1) an apparatus in which paper ballots or ballot cards are inserted~~
15 ~~and used in connection with a punch apparatus for the piercing of~~
16 ~~ballots by the voter;~~
17 ~~(2)~~ (1) a pencil for marking a paper ballot or ballot card; or
18 ~~(3)~~ (2) an approved touch-sensitive device that automatically
19 registers a vote on an electronic voting system.
20 SECTION 6. IC 3-5-2-48.5 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48.5. "Testing

authority" means an independent test authority ~~as described in:~~ or
independent laboratory:

(1) **as described in the** Voting System Standards issued by the
 Federal Election Commission on April 30, 2002; or

~~(2) other more recent voting systems standards adopted by the
 commission under IC 3-11-15-13.~~

(2) accredited under Section 231 of HAVA (42 U.S.C. 15371).".

Page 2, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 8. IC 3-6-4.2-12 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The election
 division shall do the following:

~~(1) Prepare and distribute paper ballots for the election or
 retention of persons to federal and state offices and for public
 questions in compliance with this title.~~

~~(2) (1)~~ Maintain complete and uniform descriptions and maps of
 all precincts in Indiana.

~~(3) (2)~~ Promptly update the information required by subdivision
~~(2) (1)~~ after each precinct establishment order is filed with the
 commission under IC 3-11-1.5.

~~(4) (3)~~ Issue media watcher cards under IC 3-6-10-6.

~~(5) (4)~~ Prepare and transfer to the department of state revenue
 voter registration affidavits for inclusion in state adjusted gross
 income tax booklets under IC 6-8.1-3-19.

~~(6) After December 31, 2003;~~ **(5)** Serve in accordance with 42
 U.S.C. 1973ff-1(b) as the office in Indiana responsible for
 providing information regarding voter registration procedures and
 absentee ballot procedures to absent uniformed services voters and
 overseas voters.

~~(7) (6)~~ As required by 42 U.S.C. 1973ff-1(c), submit a report to
 the federal Election Assistance Commission not later than ninety
 (90) days after each general election setting forth the combined
 number of absentee ballots:

(A) transmitted to absent uniformed services voters and
 overseas voters for the election; and

(B) returned by absent uniformed services voters and overseas
 voters and cast in the election.

~~(8) (7)~~ Implement the state plan in accordance with the
 requirements of HAVA (42 U.S.C. 15401 through 15406) and this

1 title, and appoint members of the committee established under 42
2 U.S.C. 15405.

3 ~~(9)~~ **(8)** Submit reports required under 42 U.S.C. 15408 to the
4 federal Election Assistance Commission concerning the use of
5 federal funds under Title II, Subtitle D, Part I of HAVA.

6 SECTION 9. IC 3-6-5-14 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Each county
8 election board, in addition to duties otherwise prescribed by law, shall
9 do the following:

10 (1) Adopt and amend a written plan to implement NVRA within
11 the county.

12 (2) Conduct all elections and administer the election laws within
13 the county, except as provided in IC 3-8-5 and IC 3-10-7 for town
14 conventions and municipal elections in certain small towns.

15 (3) Prepare all ballots. ~~except those prepared by the election~~
16 ~~division.~~

17 (4) Distribute all ballots and pasters to all of the precincts in the
18 county.

19 (b) This subsection does not apply to pasters to be attached to ballots
20 during the final three (3) days before an election. Not later than the
21 Monday before distributing ballots, pasters, and voting systems to the
22 precincts in the county, the county election board shall notify the
23 county chairman of each major political party and, upon request, the
24 chairman of any other bona fide political party in the county, that
25 sample ballots and pasters are available for inspection."

26 Page 2, line 11, after "34." insert **"(a)"**.

27 Page 2, line 17, after "ballots." begin a new paragraph and insert:
28 **"(b)"**.

29 Page 13, between lines 25 and 26, begin a new paragraph and insert:

30 "SECTION 32. IC 3-11-3-3 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(a)~~ If, in the
32 judgment of a county election board, the number of voters in a precinct
33 of the county where a voting ~~machine~~ **system** is used for voting is so
34 large that the ~~machine~~ **voting system** in use will not be sufficient to
35 register the vote of all the voters in the precinct, the board may use
36 paper ballots in addition to the ~~machine~~ **voting system**. The voting by
37 paper ballot is subject to all the restrictions prescribed by this article.

38 ~~(b) The county election board shall then notify the election division~~

1 of the board's determination and of the estimated number of state and
2 presidential ballots that will be required in the precinct."

3 Page 13, strike lines 30 through 32.

4 Page 13, line 33, strike "(2)" and insert "(1)".

5 Page 13, line 33, strike "local".

6 Page 13, line 36, strike "(3)" and insert "(2)".

7 Page 13, line 36, strike "local".

8 Page 14, line 5, strike "(4)" and insert "(3)".

9 Page 14, line 7, strike "(5)" and insert "(4)".

10 Page 14, line 9, strike "(6)" and insert "(5)".

11 Page 14, line 12, strike "subdivision (3)." and insert "**subdivision**
12 **(2).**".

13 Page 14, between lines 12 and 13, begin a new paragraph and insert:

14 "SECTION 34. IC 3-11-3-12 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The ~~local~~
16 ballots delivered to the inspector of each precinct under section 11 of
17 this chapter shall be placed in a strong and stout paper envelope or bag,
18 which shall then be tightly closed, fastened securely, and attested by the
19 initials of the circuit court clerk or the clerk's designee in the presence
20 of the inspector or the inspector's representative. The inspector shall
21 sign a receipt for the ballots. The ballot packages may not be opened
22 until:

23 (1) they have been delivered to the precinct election board to
24 which they are directed; and

25 (2) the precinct election board is fully organized and ready for the
26 reception of votes.

27 (b) The ~~local~~ provisional ballots delivered to the inspector of each
28 precinct under section 11 of this chapter shall be placed in a strong and
29 stout paper envelope or bag, separate from the bag described in
30 subsection (a), which shall then be tightly closed, fastened securely, and
31 attested by the initials of the circuit court clerk or the clerk's designee
32 in the presence of the inspector or the inspector's representative. The
33 inspector shall sign a receipt for the provisional ballots. The provisional
34 ballot packages may not be opened until:

35 (1) they have been delivered to the precinct election board to
36 which they are directed; and

37 (2) the precinct election board is fully organized and ready to
38 receive votes."

1 Page 15, between lines 16 and 17, begin a new paragraph and insert:

2 "SECTION 38. IC 3-11-6.5-6.1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) When
4 approving applications for reimbursement for voting systems under this
5 chapter, the budget agency shall give priority to approving applications
6 to replace a punch card voting system or voting machine system.

7 **(b) This section expires January 1, 2006.**

8 SECTION 39. IC 3-11-7-1 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a)~~ The commission
10 must approve a ballot card voting system before it may be used in an
11 election.

12 ~~(b) After June 30, 2001, the commission may not approve a punch~~
13 ~~card voting system for use in an election.~~

14 SECTION 40. IC 3-11-7-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A ballot card voting
16 system must permit a voter to vote either:

- 17 (1) a straight party ticket for all of the candidates of a political
18 party by a single mark ~~or punch~~ on each ballot card;
- 19 (2) a split ticket for the candidates of different political parties and
20 for independent candidates; or
- 21 (3) a straight party ticket and then split that ticket by casting
22 individual votes for candidates of another political party or
23 independent candidate.

24 SECTION 41. IC 3-11-7-12 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The
26 commission shall:

27 **(1) require the vendor to have tests conducted concerning the**
28 **~~suitability~~ compliance of a ballot card voting system with HAVA**
29 **and the standards set forth in this chapter and IC 3-11-15;**
30 **and**

31 **(2) have the results of the tests evaluated by the person**
32 **designated under IC 3-11-16;**

33 before determining whether to approve the **application for**
34 **certification of a** ballot card voting system.

35 **(b) The tests required under this section must be performed by**
36 **an independent laboratory accredited under Section 231 of HAVA**
37 **(42 U.S.C. 15371). The vendor shall pay any testing expenses**
38 **incurred under this section.**

1 (c) Except as provided in subsection (d), a ballot card voting
 2 system may not be marketed, sold, leased, installed, or
 3 implemented in Indiana before the application for certification of
 4 the system is approved by the commission.

5 (d) This subsection applies to a ballot card voting system whose
 6 application for certification has been filed with the election division
 7 and has not been approved by the commission. Notwithstanding
 8 subsection (c), a vendor may market a ballot card system described
 9 by this subsection if:

10 (1) the vendor files the application for certification with the
 11 election division before conducting any marketing of the
 12 system in Indiana; and

13 (2) all of the vendor's product information has a prominent
 14 and easily readable label that states that the ballot card voting
 15 system has not been approved by the commission for use in
 16 Indiana elections.

17 (e) An approval of a ballot card voting system under this
 18 chapter expires on the date specified in section 19(a) of this
 19 chapter.

20 SECTION 42. IC 3-11-7-15 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A **vendor**
 22 **may apply for approval of a** proposed improvement or change to a
 23 ballot card voting system ~~shall be reported to the election division by:~~

24 ~~(1) the vendor, if a vendor is involved in the proposed change; and~~

25 ~~(2) the county election board, if a county is proposing the change;~~

26 **that is currently certified by the commission. Except as provided in**
 27 **subsection (b),** a proposed improvement or change may not be
 28 marketed, sold, leased, installed, or implemented in Indiana before the
 29 **application for the** improvement or change is approved by the
 30 commission.

31 **(b) This subsection applies to a ballot card voting system whose**
 32 **application for a proposed improvement or change has been filed**
 33 **with the election division and has not been approved by the**
 34 **commission. Notwithstanding subsection (a), a vendor may market**
 35 **a ballot card voting system described by this subsection if:**

36 **(1) the vendor files the application with the election division**
 37 **before conducting any marketing of the system in Indiana;**
 38 **and**

(2) all of the vendor's product information has a prominent and easily readable label that states that the proposed improvement or change to the ballot card voting system has not been approved by the commission for use in Indiana elections.

~~(b)~~ ~~A report of~~ (c) An application for approval of an improvement or change must be in the form prescribed by the commission.

(d) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371). The vendor shall pay any testing expenses incurred under this subsection.

~~(c)~~ (e) The election division (or a competent the person designated by the commission to act on behalf of the election division under IC 3-11-16) shall review the proposed improvement or change to the voting system and report the results of the review to the commission. The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter. The review must indicate:

(1) whether the proposed improvement or change has been approved by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371); and

(2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.

~~(d)~~ (f) After the commission has approved the application for an improvement or change to a ballot card voting system, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

(g) An approval of an application under this section expires on the date specified under section 19(a) of this chapter.

SECTION 43. IC 3-11-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. The commission may not approve the marketing, sale, lease, installation, or implementation of a ballot card voting system by a vendor if the commission finds that the system fails to meet all statutory

1 requirements.

2 SECTION 44. IC 3-11-7-17 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The
 4 election division (or ~~a competent~~ **the** person designated by the
 5 ~~commission to act on behalf of the election division under IC 3-11-16)~~
 6 may periodically examine a ballot card voting system that the
 7 commission has previously approved to determine ~~if whether~~ the
 8 system is still in compliance with all statutory requirements **and**
 9 **whether the voting system in use in a county has the same**
 10 **hardware, firmware, and software as the version of the voting**
 11 **system that was certified by the commission.**

12 (b) ~~If the election division or competent person finds that a system~~
 13 ~~examined under does not comply with~~ subsection (a), ~~fails to meet all~~
 14 ~~requirements and standards; and the commission concurs in these~~
 15 ~~findings; the commission may by unanimous vote of all of the members~~
 16 ~~of the commission; rescind the commission's approval of the voting~~
 17 ~~system.~~

18 (c) If the commission's approval is rescinded under subsection (b),
 19 the commission may ~~by unanimous vote of all of the members of the~~
 20 ~~commission;~~

21 (1) recommend that use of the system be discontinued; and
 22 (2) prohibit the system from being **installed, implemented,**
 23 leased, marketed, **used, permitted to be used,** or sold for use in
 24 Indiana in an election conducted under this title.

25 (d) ~~This subsection applies to a ballot card voting system approved~~
 26 ~~for its initial certification before:~~

27 (1) ~~March 25, 1992; or~~
 28 (2) ~~a revision of IC 3-11-15 enacted after July 1, 1997, that~~
 29 ~~imposes additional standards that did not apply to the voting~~
 30 ~~system at the time of the system's initial certification;~~

31 ~~The commission may, by unanimous consent of its entire membership,~~
 32 ~~require the voting system to be tested by an independent authority~~
 33 ~~designated by the commission. The vendor shall pay any testing~~
 34 ~~expenses under this subsection.~~

35 (e) If the independent testing authority determines that a voting
 36 system tested under subsection (d) does not comply with this article; the
 37 commission may, by unanimous consent of its entire membership;
 38 prohibit the system from being leased, marketed; or sold for use in

1 ~~Indiana in an election conducted under this title.~~

2 SECTION 45. IC 3-11-7-18 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The
4 ~~commission may require~~ a county executive ~~to~~ **shall** file a copy of all
5 contracts, leases, or purchase orders, including modifications, for the
6 sale or lease of voting equipment, systems, or software with the election
7 division.

8 (b) The ~~election division may advise or instruct county officials on~~
9 ~~the content of the~~ documents listed in subsection (a) **must be filed not**
10 **later than thirty (30) days after the date of approval of the contract,**
11 **lease, or purchase order by the county executive.**

12 SECTION 46. IC 3-11-7-19 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Except as
14 provided in subsection (g), the approval of a ballot card voting system
15 under this chapter expires ~~five (5) years after the date the commission~~
16 ~~approves the system.~~ **October 1 of the year following the year in**
17 **which presidential electors are elected under IC 3-10-2-3.**

18 (b) The vendor of a voting system approved under this chapter may
19 request that the approval be renewed by filing an application with the
20 election division.

21 (c) The application described in subsection (b) must identify all
22 counties that are currently using the voting system. Before ~~considering~~
23 **the commission considers** the application for renewal, the election
24 division shall give notice ~~by regular United States mail~~ of the
25 application to the circuit court clerk of each county listed in the
26 application.

27 (d) When the commission considers the application, the commission
28 shall request comments regarding the renewal of the application from
29 any interested person. **Before acting on the application for renewal,**
30 **the commission must receive a report from the person designated**
31 **under IC 3-11-16 indicating that the hardware, firmware, and**
32 **software included in the application for renewal of the voting**
33 **system is identical to the version of the voting system previously**
34 **certified by the commission.**

35 (e) ~~The commission may, by unanimous consent of its entire~~
36 ~~membership, order the voting system to be tested by an independent~~
37 ~~authority designated by the commission. The vendor shall pay any~~
38 ~~testing expenses under this subsection.~~

~~(f)~~ (e) After receiving the report under subsection (d) and receiving comments from interested persons, the commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

~~(g)~~ (f) This subsection does not apply to the marketing of a voting system performed in compliance with section 12(d) or 15(b) of this chapter. If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

~~(h)~~ (g) A vendor subject to subsection ~~(g)~~ (f) may continue to provide support during the period specified in subsection ~~(g)~~ (f) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 47. IC 3-11-7.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person owning or interested in an electronic voting system may request the election division (or a competent person designated by the commission to act on behalf of the election division) to examine the submit an application for approval of an electronic voting system and report on its accuracy, efficiency, and capacity: in the form prescribed by the commission.

SECTION 48. IC 3-11-7.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The commission shall:

- (1) require the vendor to have tests conducted concerning the compliance of an electronic voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and

1 **(2) have the results of the tests evaluated by the person**
 2 **designated under IC 3-11-16;**
 3 **before determining whether to approve the application for**
 4 **certification of an electronic voting system.**

5 **(b) The tests required under this section must be performed by**
 6 **an independent laboratory accredited under Section 231 of HAVA**
 7 **(42 U.S.C. 15371). The vendor shall pay any testing expenses under**
 8 **this section.**

9 **(c) If the commission finds that an electronic voting system complies**
 10 **with this article, the commission may approve the system. The**
 11 **approved system then may be adopted for use at an election.**

12 **(d) Except as provided in subsection (e), an electronic voting**
 13 **system may not be marketed, sold, leased, installed, or**
 14 **implemented in Indiana before the application for certification of**
 15 **the system is approved by the commission.**

16 **(e) This subsection applies to an electronic voting system whose**
 17 **application for certification has been filed with the election division**
 18 **and has not been approved by the commission. Notwithstanding**
 19 **subsection (d), a vendor may market an electronic voting system**
 20 **described by this subsection if:**

21 **(1) the vendor files the application with the election division**
 22 **before conducting any marketing of the system in Indiana;**
 23 **and**

24 **(2) all of the vendor's product information has a prominent**
 25 **and easily readable label that states that the electronic voting**
 26 **system has not been approved by the commission for use in**
 27 **Indiana elections.**

28 **(f) An approval of an electronic voting system under this chapter**
 29 **expires on the date specified by section 28(a) of this chapter.**

30 **SECTION 49. IC 3-11-7.5-5 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A vendor**
 32 **may apply for approval of a proposed improvement or change to an**
 33 **electronic voting system ~~shall be reported to the election division by:~~**
 34 **~~(1) the vendor, if a vendor is involved in the proposed change; and~~**
 35 **~~(2) the county election board, if a county is proposing the change.~~**
 36 **that is currently certified by the commission. Except as provided in**
 37 **subsection (b), a proposed improvement or change may not be**
 38 **marketed, sold, leased, installed, or implemented in Indiana before the**

1 **application for the** improvement or change is approved by the
 2 commission.

3 **(b) This subsection applies to an electronic voting system whose**
 4 **application for a proposed improvement or change has been filed**
 5 **with the election division and has not been approved by the**
 6 **commission. Notwithstanding subsection (a), a vendor may market**
 7 **an electronic voting system described by this subsection if:**

8 **(1) the vendor files the application with the election division**
 9 **before conducting any marketing of the system in Indiana;**
 10 **and**

11 **(2) all of the vendor's product information has a prominent**
 12 **and easily readable label that states that the proposed**
 13 **improvement or change to the electronic voting system has not**
 14 **been approved by the commission for use in Indiana elections.**

15 ~~(b) A report of~~ **(c) An application for approval of an** improvement
 16 **or a change must be in the form prescribed by the commission.**

17 **(d) The vendor applying for approval of an improvement or a**
 18 **change must have the improvement or change to the voting system**
 19 **tested by an independent laboratory accredited under Section 231**
 20 **of HAVA (42 U.S.C. 15371). The vendor shall pay any testing**
 21 **expenses incurred under this subsection.**

22 ~~(c) (e) The election division (or a competent~~ **(e) the person designated**
 23 ~~by the commission to act on behalf of the election division under~~
 24 **IC 3-11-16) shall review the improvement or change to the voting**
 25 **system and report the results of the review to the commission. The**
 26 ~~commission shall determine within a reasonable period of time whether~~
 27 ~~the improvement or change impairs the accuracy, efficiency, capacity,~~
 28 ~~or ability to meet the requirements of this article. The review must~~
 29 **indicate:**

30 **(1) whether the proposed improvement or change has been**
 31 **approved by an independent laboratory accredited under**
 32 **Section 231 of HAVA (42 U.S.C. 15371); and**

33 **(2) whether the proposed improvement or change would**
 34 **comply with HAVA and the standards set forth in this chapter**
 35 **and IC 3-11-15.**

36 ~~(d) (f) After the commission has examined and approved the~~
 37 **application for an improvement or change to an electronic voting**
 38 **system, the improvement or change may be marketed, sold, leased,**

1 installed, or implemented in Indiana.

2 **(g) An approval of an application under this section expires on**
 3 **the date specified by section 28(a) of this chapter.**

4 SECTION 50. IC 3-11-7.5-7 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The commission
 6 may not approve **the marketing, sale, lease, installation, or**
 7 **implementation of** an electronic voting system unless the system meets
 8 the specifications in sections 8 through 19 of this chapter and in
 9 IC 3-11-15.

10 SECTION 51. IC 3-11-7.5-21 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. A county
 12 executive may ~~adopt and~~ purchase, ~~or~~ procure, **lease, install,**
 13 **implement, or authorize the use of** an electronic voting system only
 14 after the system has been approved by the commission.

15 SECTION 52. IC 3-11-7.5-26 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The
 17 election division (or ~~a competent~~ **the** person designated ~~by the~~
 18 ~~commission to act on behalf of the election division under IC 3-11-16)~~
 19 may periodically examine an electronic voting system that the
 20 commission has previously approved to determine ~~if whether~~ that
 21 system is still in compliance with all statutory requirements **and**
 22 **whether the voting system in use in a county has the same**
 23 **hardware, firmware, and software as the version of the voting**
 24 **system that was certified by the commission.**

25 (b) ~~If the election division or competent person finds that a system~~
 26 ~~examined under does not comply with~~ subsection (a), ~~fails to meet all~~
 27 ~~requirements and standards; and the commission concurs in these~~
 28 ~~findings; the commission may by unanimous vote of all of the members~~
 29 ~~of the commission; rescind the commission's approval of the voting~~
 30 ~~system.~~

31 (c) If the commission's approval is rescinded under subsection (b),
 32 the commission may ~~by unanimous vote of all of the members of the~~
 33 ~~commission;~~

34 (1) ~~recommend that use of the system be discontinued; and~~

35 (2) ~~prohibit the system from being~~ **installed, implemented,**
 36 **leased, marketed, used, permitted to be used,** or sold for use in
 37 Indiana in an election conducted under this title.

38 **(d) This subsection applies to an electronic voting system approved**

for its initial certification before:

(1) March 25, 1992; or

(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 53. IC 3-11-7.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The commission may require a county executive to **shall** file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The election division may advise or instruct county officials on the content of the documents listed in subsection (a) **must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.**

SECTION 54. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) Except as provided in subsection (g), the approval of an electronic voting system under this chapter expires **five (5) years after the date the commission approves the system. October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.**

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice **by regular United States mail** of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person. **Before acting on the application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.**

~~(e) The commission may, by unanimous consent of the commission's entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

~~(f)~~ **(e) After receiving the report under subsection (d) and comments from interested persons,** the commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

~~(g)~~ **(f) This subsection does not apply to the marketing of a voting system performed in compliance with section 4(e) or 5(b) of this chapter.** If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

~~(h)~~ **(g) A vendor subject to subsection (g) subsection (f) may continue to provide support during the period specified in subsection (g) subsection (f) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana."**

Page 18, between lines 13 and 14, begin a new paragraph and insert:
"SECTION 60. IC 3-11-13-6 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Before an
 2 election at which a ballot card voting system is used, a county election
 3 board shall:

- 4 (1) have the marking devices prepared for the election;
- 5 (2) have the marking devices put in order, set and adjusted, and
 6 made ready for voting when delivered to the precincts; and
- 7 (3) provide the precinct election officers with marking devices, a
 8 demonstration marking device, ~~(except in precincts using optical~~
 9 ~~scan ballots)~~, ballot cards, ballot boxes, ballot labels, and other
 10 records and supplies as required.

11 (b) While acting under subsection (a), the county election board may
 12 restrict access to parts of the room where marking devices and other
 13 election material are being handled to safeguard this material.

14 (c) Each county election board shall have each ballot card voting
 15 system, along with all necessary furniture and appliances that go with
 16 the system at the polls, delivered to the appropriate precinct not later
 17 than 6 p.m. of the day before election day. The county executive shall
 18 provide transportation for the systems if requested to do so by the
 19 county election board.

20 SECTION 61. IC 3-11-13-14 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. In partisan
 22 elections, the ballot labels must include a voting square or position
 23 where a voter may by one (1) mark ~~or punch~~ on each card record a
 24 straight party or an independent ticket vote for all the candidates of one
 25 (1) political party or the independent ticket, except for offices for which
 26 the voter has voted individually for a candidate. If the voter records a
 27 vote for the two (2) candidates comprising an independent ticket, the
 28 vote must not count for any other independent candidate on the ballot.

29 SECTION 62. IC 3-11-13-18 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. ~~(a) This subsection~~
 31 ~~does not apply to an optical scan voting system and expires January 1,~~
 32 ~~2006. Each ballot card provided under section 17 of this chapter must~~
 33 ~~have two (2) attached perforated stubs on which is printed the same~~
 34 ~~serial number. The top stub shall be bound or stapled in the package of~~
 35 ~~ballot cards retained by the precinct election officers. The following~~
 36 ~~information must be printed on the second stub:~~

- 37 ~~(1) The name of the political subdivision holding the election.~~
- 38 ~~(2) The designation of the election.~~

1 ~~(3) The date of the election.~~

2 ~~(4) The instructions to the voters.~~

3 ~~(5) In a primary election, the name of the political party.~~

4 ~~(b)~~ (a) The county election board in a county using a ballot card
5 voting system shall provide ballot cards to the precinct election board
6 that permit voters to cast write-in votes for each officer to be voted for
7 at that election.

8 ~~(c)~~ (b) The ballot cards provided under subsection ~~(b)~~ subsection (a)
9 must be:

10 (1) designed to be folded; or

11 (2) accompanied by a secrecy envelope;

12 to ensure the secrecy of each of the votes cast by a voter.

13 ~~(d)~~ (c) This subsection is enacted to comply with 42 U.S.C. 15481
14 by establishing uniform and nondiscriminatory standards to define what
15 constitutes a vote on an optical scan voting system. Except as provided
16 in subsection ~~(c)~~; (d), a write-in vote shall be cast by printing the name
17 of the candidate and the title of the office in the space provided for
18 write-in votes on a ballot card or secrecy envelope.

19 ~~(e)~~ (d) Space for write-in voting for an office is not required if there
20 are no declared write-in candidates for that office. However, procedures
21 must be implemented to permit write-in voting for candidates for
22 federal offices.

23 SECTION 63. IC 3-11-13-24 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. The test required
25 by section 22 of this chapter must:

26 ~~(1) include the visual inspection of the voting devices for the~~
27 ~~correct alignment of the card stock and the templates for proper~~
28 ~~punching;~~

29 ~~(2)~~ (1) be conducted by processing a preaudited group of ballot
30 cards ~~punched or~~ marked so as to record a predetermined number
31 of valid votes for each candidate and on each public question; and
32 ~~(3)~~ (2) include for each office one (1) or more ballot cards that
33 have votes in excess of the number allowed by law in order to test
34 the ability of the automatic tabulating machines to reject the
35 votes."

36 Page 18, between lines 19 and 20, begin a new paragraph and insert:

37 "SECTION 65. IC 3-11-13-27 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) After the

delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

(b) While acting under subsection (a), the precinct election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the chute erected;
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall **do the following:**

(1) Compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement.

(2) Determine that the system records that zero (0) votes have been cast for each candidate and on each public question.

(3) Assure that the system is otherwise in perfect order.

(e) The officers then shall certify that:

- (1) the marking device and the sample ballots are in agreement;
- (2) the system records zero (0) votes cast; and**
- (3) the system appears to be in perfect order.**

Forms shall be provided for certification, and the certification shall be filed with the election returns.

SECTION 66. IC 3-11-13-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.

~~(b) This subsection does not apply to an optical scan voting system. After a voter has signed the poll list, the poll clerk holding the ballot card shall remove the top stub, as described in section 18 of this chapter, and deliver to the voter one (1) of each ballot card that the~~

1 voter is entitled to vote at the election. The top stub (and any second
 2 stub declined by the voter under section 33 of this chapter) shall be
 3 retained by the precinct election board and returned to the election
 4 board following the close of the polls.

5 ~~(c)~~ **(b)** As each successive voter calls for a ballot, the poll clerks
 6 shall deliver to the voter the first initialed ballot of each type. The
 7 inspector shall then deliver to the poll clerks another ballot of each
 8 type, which the clerks shall initial as before.

9 ~~(d)~~ **(c)** This subsection applies after December 31, 2005, to an
 10 optical scan ballot card ballot tabulated at a central location. As
 11 provided by 42 U.S.C. 15481, when a voter receives an optical scan
 12 ballot card ballot, the board must also provide the voter with:

13 (1) information concerning the effect of casting multiple votes for
 14 an office; and

15 (2) instructions on how to correct the ballot before the ballot is
 16 cast and counted, including the issuance of replacement ballots.

17 SECTION 67. IC 3-11-13-28.7 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.7. (a) The two (2)
 19 poll clerks of each precinct shall place their initials in ink on the
 20 secrecy envelope of a ballot card (or on the fold-over part of a ballot
 21 card described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter) at
 22 the time the card is issued to a voter. The initials must be in the poll
 23 clerk's ordinary handwriting or printing and without a distinguishing
 24 mark of any kind.

25 (b) This subsection is enacted to comply with 42 U.S.C. 15481 by
 26 establishing uniform and nondiscriminatory standards to define what
 27 constitutes a vote on an optical scan voting system. A write-in vote cast
 28 on a secrecy envelope or fold-over envelope:

29 (1) is not valid unless:

30 (A) the secrecy envelope is initialed by both poll clerks; and

31 (B) the vote includes both the name of the write-in candidate
 32 and the office for which the write-in vote is cast; and

33 (2) makes the secrecy envelope or fold-over envelope a ballot for
 34 purposes of this title.

35 SECTION 68. IC 3-11-13-29 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) In addition to
 37 the instructions printed on the ballot card or ballot labels, instructions
 38 to voters shall be posted in each voting booth or placed on the marking

1 device. Each voter shall be instructed by both judges, on request, on
 2 how to operate the voting device before the voter enters the voting
 3 booth.

4 (b) The instructions posted in the voting booth or placed on the
 5 marking device must state the following:

6 (1) That the voter should examine the ballot card to determine if
 7 it contains the initials of the poll clerks in ink on the back of the
 8 card.

9 (2) That the voter should not make an unnecessary mark ~~or punch~~
 10 on the ballot card because the mark ~~or punch~~ may void the card.

11 (3) That the voter should examine the ballot card to determine if
 12 the card has any mark (other than the initials of the poll clerks)
 13 before voting.

14 (4) That the voter should return the ballot card to the poll clerks
 15 and request another ballot card if:

16 (A) the poll clerks' initials have not been properly placed on
 17 the card;

18 (B) the card has a mark (other than the initials of the poll
 19 clerks) before the voter places a voting mark on the ballot; or

20 (C) the voter has improperly marked ~~or punched~~ the card.

21 (5) That the voter should examine the ballot card after voting to
 22 determine that all marks ~~or punches~~ made on the card to indicate
 23 the voter's selections have been completely marked. ~~or punched~~.

24 (c) This subsection applies after December 31, 2005. As provided
 25 by 42 U.S.C. 15481, a voter casting an optical scan ballot card under
 26 this section must be:

27 (1) permitted to verify in a private and an independent manner the
 28 votes selected by the voter before the ballot is cast and counted;

29 (2) provided the opportunity to change the ballot or correct any
 30 error in a private and independent manner before the ballot is cast
 31 and counted, including the opportunity to receive a replacement
 32 ballot if the voter is otherwise unable to change or correct the
 33 ballot; and

34 (3) notified before the ballot is cast regarding the effect of casting
 35 multiple votes for the office and provided an opportunity to
 36 correct the ballot before the ballot is cast and counted.

37 SECTION 69. IC 3-11-13-30 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. When a voter is

1 handed a ballot card, the voter shall be instructed to:

- 2 (1) use only the marking device provided for ~~punching, slotting,~~
3 ~~or~~ marking the cards and that the voter is not to mark a card in any
4 other way;
- 5 (2) be certain that the initials of the poll clerks appear on the
6 voter's card and that if the initials are not on the card it will not be
7 counted, except as provided by IC 3-12-1-12; and
- 8 (3) place the voter's card in an envelope after the voter has voted
9 or to fold the card in a manner so that no card is exposed upon
10 which a choice is indicated.

11 SECTION 70. IC 3-11-13-31.7 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.7. (a) This section
13 is enacted to comply with 42 U.S.C. 15481 by establishing uniform and
14 nondiscriminatory standards to define what constitutes a vote on an
15 optical scan voting system.

16 (b) After receiving ballot cards, a voter shall, without leaving the
17 room, go alone into one (1) of the booths or compartments that is
18 unoccupied and indicate:

- 19 (1) the candidates for whom the voter desires to vote by ~~punching~~
20 ~~a hole in~~ ~~or~~ marking the squares immediately beside the
21 candidates' names; and
- 22 (2) the voter's preference on each public question by ~~punching a~~
23 ~~hole in~~ ~~or~~ marking the square beside the word "yes" or "no" under
24 the question.

25 (c) If an election is a general or municipal election and a voter
26 desires to vote for all the candidates of one (1) political party or group
27 of petitioners, the voter may ~~punch a hole in~~ ~~or~~ mark the circle
28 enclosing the device and beside the name under which the candidates
29 of the party or group of petitioners are printed. The voter's vote shall
30 then be counted for all the candidates under that name. However, if the
31 voter ~~punches a hole in~~ ~~or~~ marks the circle of an independent ticket
32 comprised of two (2) candidates, the vote shall not be counted for any
33 other independent candidate on the ballot.

34 SECTION 71. IC 3-11-13-33 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) After a voter
36 has marked a ballot card, the voter shall place it inside the envelope
37 provided for this purpose or fold the envelope described in section
38 18(c)(1) of this chapter and return the ballot card to the judge.

~~(b)~~ This subsection does not apply to an optical scan ballot or to a ballot card with a fold-over envelope. The judge shall remove the second stub, as described in section 18 of this chapter, from the envelope and offer the second stub to the voter.

~~(c)~~ **(b)** The judge shall offer to return the envelope with the ballot card inside to the voter. The voter shall:

- (1) accept the envelope and deposit it in the ballot box; or
- (2) decline the envelope and require the judge to deposit it in the ballot box.

~~(d)~~ **(c)** If a voter offers to vote a ballot card that is not inside the envelope provided for this purpose or with the envelope not folded if the ballot is described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter, the precinct election board shall direct the voter to return to the booth and place the ballot card in the envelope provided for this purpose or fold the envelope.

~~(e)~~ **(d)** After a voter's ballot cards have been deposited in the ballot box, the poll clerks shall make a voting mark after the voter's name on the poll list.

~~(f)~~ **(e)** After voting, a voter shall leave the polls. However, a voter to whom ballot cards and a marking device have been delivered may not leave the polls without voting the ballot cards or returning them to the poll clerk from whom the voter received them.

SECTION 72. IC 3-11-13-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. ~~(a)~~ If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card so as not to disclose any choices that the voter has made.

~~(b)~~ This subsection does not apply to an optical scan ballot. ~~A voter returning a ballot must comply with subsection (a) by folding the stub on the ballot card.~~

~~(c)~~ After complying with subsection (b), the voter then may receive another ballot card. Upon receipt of a defective ballot card, the precinct election board shall:

- ~~(1)~~ immediately cancel the defective card by writing on the back of the card and stub the word "VOID" in ink or in indelible pencil; and
- ~~(2)~~ without detaching any stub attached to the card, place the card in the container for voided ballots in a manner that does not expose the choices of the voter.

1 SECTION 73. IC 3-11-14-13 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Before an
 3 electronic voting system is delivered to a precinct, the county election
 4 board shall have the system put in order, set and adjusted, and ready for
 5 use in voting. **As part of the system's preparation, the county**
 6 **election board may conduct any of the comparisons and**
 7 **determinations required under section 17 of the chapter. However,**
 8 **notwithstanding any action taken by the county election board,**
 9 **each precinct election board must also perform the comparisons**
 10 **and determinations required under section 17 of this chapter**
 11 **before the opening of the polls.** The board may employ one (1) or
 12 more competent persons to prepare systems in accordance with this
 13 section.

14 (b) While acting under subsection (a), the county election board may
 15 restrict access to parts of the room where voting systems and other
 16 election material are being handled to safeguard this material.

17 SECTION 74. IC 3-11-14-23 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) This section is
 19 enacted to comply with 42 U.S.C. 15481 by establishing uniform and
 20 nondiscriminatory standards to define what constitutes a vote on an
 21 electronic voting system.

22 (b) If a voter is not challenged by a member of the precinct election
 23 board, the voter may pass the railing to the side where an electronic
 24 voting system is and into the voting booth. There the voter shall register
 25 the voter's vote in secret by indicating:

26 (1) the candidates for whom the voter desires to vote by touching
 27 a device on or in the squares immediately above the candidates'
 28 names;

29 (2) if the voter intends to cast a write-in vote, a write-in vote by
 30 touching a device on or in the square immediately below the
 31 candidates' names and printing the name of the candidate in the
 32 window provided for write-in voting; and

33 (3) the voter's preference on each public question by touching a
 34 device above the word "yes" or "no" under the question.

35 (c) If an election is a general or municipal election and a voter
 36 desires to vote for all the candidates of one (1) political party or group
 37 of petitioners, the voter may cast a straight party ticket by touching that
 38 party's device. The voter's vote shall then be counted for all the

1 candidates under that name. However, if the voter casts a vote by
 2 touching the circle of an independent ticket comprised of two (2)
 3 candidates, the vote shall not be counted for any other independent
 4 candidate on the ballot.

5 (d) **This subsection applies after December 31, 2005.** As provided
 6 by 42 U.S.C. 15481, a voter casting a ballot on an electronic voting
 7 system must be:

8 (1) permitted to verify in a private and an independent manner the
 9 votes selected by the voter before the ballot is cast and counted;

10 (2) provided the opportunity to change the ballot or correct any
 11 error in a private and independent manner before the ballot is cast
 12 and counted, including the opportunity to receive a replacement
 13 ballot if the voter is otherwise unable to change or correct the
 14 ballot; and

15 (3) notified before the ballot is cast regarding the effect of casting
 16 multiple votes for the office and provided an opportunity to
 17 correct the ballot before the ballot is cast and counted.

18 SECTION 75. IC 3-11-14.5 IS ADDED TO THE INDIANA CODE
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2005]:

21 **Chapter 14.5. Public Tests of Electronic Voting Systems**

22 **Sec. 1. At least fourteen (14) days before election day, the county**
 23 **election board of each county planning to use an electronic voting**
 24 **system at the next election shall randomly select at least three (3)**
 25 **precincts within the county and test the voting system units to be**
 26 **used at those precincts on election day. Each voting system shall be**
 27 **tested to ascertain that the system will correctly count the votes cast**
 28 **for all candidates and on all public questions in that precinct.**

29 **Sec. 2. Public notice of the time and place shall be given at least**
 30 **forty-eight (48) hours before the test. The notice shall be published**
 31 **once in accordance with IC 5-3-1-4.**

32 **Sec. 3. The two (2) appointed members of the county election**
 33 **board shall observe the test required by this chapter and, if they so**
 34 **determine, shall certify the test as meeting the requirements of this**
 35 **chapter.**

36 **Sec. 4. The test must be open to representatives of political**
 37 **parties, candidates, the media, and the public.**

38 **Sec. 5. The test required by this chapter must include the**

1 following:

2 (1) The visual inspection of the voting system and ballot labels.

3 (2) The manual entry of a preaudited group of ballots marked
4 so as to record a predetermined number of valid votes for
5 each candidate and on each public question.

6 (3) At least one (1) ballot for each office that has votes in
7 excess of the number allowed by law in order to test the ability
8 of the electronic voting system to reject the overvotes.

9 Sec. 6. If an error is detected during the test required by section
10 5 of this chapter, the cause of the error shall be determined and
11 corrected, and an errorless count must be made before the use of
12 the electronic voting system at the election is approved.

13 Sec. 7. After completion of the count, the voting system shall be
14 sealed. The ballots used to conduct the test and all other election
15 materials shall be sealed, retained, and disposed of as provided for
16 paper ballots.

17 Sec. 8. Immediately following the completion of the voting
18 system test under section 5 of this chapter, the county election
19 board shall enter the vote totals from the voting systems tested
20 under this chapter into the component of the voting system used by
21 the county election board to tabulate election results under
22 IC 3-12-3.5. The board shall determine whether this component of
23 the voting system properly tabulates the votes cast in each of the
24 precincts tested under this chapter.

25 Sec. 9. Not later than seven (7) days after conducting the tests
26 required under this chapter, the county election board shall certify
27 to the election division that the tests have been conducted in
28 conformity with this chapter.

29 Sec. 10. A copy of the certification of the tests conducted under
30 this chapter shall be filed with the election returns.

31 SECTION 76. IC 3-11-15-2 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The
33 performance and test standards and fees under this chapter apply to ~~a~~
34 **an optical scan voting system or an electronic voting system**
35 ~~procured after March 25, 1992; described in IC 3-11-7 or IC 3-11-7.5.~~

36 SECTION 77. IC 3-11-15-6 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The commission
38 shall not approve any system until the fee and the expenses incurred by

the election division (or ~~a competent~~ **the person designated by the commission to act on behalf of the election division under IC 3-11-16**) in making the examination are paid by the person making the application.

SECTION 78. IC 3-11-15-13.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) This section applies after December 31, 2005.

(b) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.

~~(c) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (b). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (b).~~

(c) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system:

(1) was:

(A) approved by the commission for use in elections in Indiana before July 1, 2003; and

(B) purchased by the county before July 1, 2003; and

(2) otherwise complies with the applicable provisions of HAVA and this article.

However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(d) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(e) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (d) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(f) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system

provided under subsection (e), the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.

SECTION 79. IC 3-11-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 16. Voting System Technical Oversight Program

Sec. 1. As used in this chapter, "program" refers to the voting system technical oversight program established by section 2 of this chapter.

Sec. 2. The voting system technical oversight program is established.

Sec. 3. The secretary of state shall contract with a person or an entity to conduct the program for a term specified in the contract.

Sec. 4. The person or entity designated under this chapter to conduct the program shall do the following:

(1) Develop and propose procedures and standards for the certification, acquisition, functioning, training, and security for voting systems used to conduct elections in Indiana.

(2) Compile and maintain an inventory of all voting systems used to conduct elections in Indiana.

(3) Review reports concerning voting systems prepared by independent laboratories and submitted by applicants for voting system certification.

(4) Recommend to the commission whether an application for voting system certification should be approved and, if so, whether the approval should be subject to any restrictions or conditions to ensure compliance with Indiana law.

(5) Perform any additional testing of a voting system necessary to determine whether the voting system complies with state law.

(6) Each year perform random audits of voting systems used to conduct Indiana elections and prepare reports indicating whether the voting systems have been certified, programmed, and used in compliance with Indiana law.

(7) Review contracts, leases, purchase orders, and amendments to those documents concerning the acquisition or maintenance of voting systems.

(8) Assist with the development of quantity purchase agreements and other contracts for the lease or purchase of voting systems.

(9) Perform any other duties related to the approval or use of voting systems as provided in:

(A) state law; or

(B) the contract described in section 3 of this chapter.

SECTION 80. IC 3-11-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17. Voting System Violations

Sec. 1. This chapter applies to a voting system vendor who sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana.

Sec. 2. In addition to any other penalty imposed, a vendor who knowingly, recklessly, or negligently sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana in violation of this title is subject to a civil penalty under this chapter.

Sec. 3. If the secretary of state determines that a vendor is subject to a civil penalty under section 2 of this chapter, the secretary of state may assess a civil penalty. The civil penalty assessed under this section may not exceed five hundred thousand dollars (\$500,000), plus any investigative costs incurred and documented by the secretary of state.

Sec. 4. The secretary of state is subject to IC 4-21.5 in imposing a civil penalty under this chapter.

Sec. 5. All civil penalties collected under this chapter shall be deposited with the treasurer of state in the voting system technical oversight program account established by section 6 of this chapter.

Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 11 3-11-16, and this chapter.

(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.

(c) The expenses of administering the account shall be paid from the money in the account. The account consists of all civil penalties collected under this chapter."

Page 18, between lines 37 and 38, begin a new paragraph and insert:
 "SECTION 82. IC 3-12-1-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) This section applies to counting votes cast on ballot cards.

(b) As used in this section, "chad" means the part of a ballot card that indicates a vote on the card when entirely punched out by the voter:

(c) A chad that has been pierced, but not entirely punched out of the card, shall be counted as a vote for the indicated candidate or for the indicated response to a public question:

(d) A chad that has been indented, but not in any way separated from the remainder of the card, may not be counted as a vote for a candidate or on a public question:

(e) Whenever:

(1) a ballot card contains a numbered box indicating which chad should be punched out by the voter to cast a vote for a candidate or on a public question;

(2) the indicated chad has not been punched out; and

(3) a hole has been made in the card that touches any part of the numbered box;

the hole shall be counted as a vote for the candidate or on the public question as if the indicated chad had been punched out. However, if a hole has been made in the ballot that does not touch a numbered box or punch out a chad, the hole may not be counted as a vote for a candidate or on a public question:

(f) Whenever:

(1) a chad has been punched out of a ballot card;

(2) a numbered box indicates that another chad may be punched out to cast a vote for:

(A) a different candidate for the same office as the candidate for whom a vote was cast under subdivision (1); or

(B) a different response to the same public question on which a vote was cast under subdivision (1); and

(3) a hole has been punched in the card that touches the numbered box described in subdivision (2);

neither the chad described in subdivision (1) nor the hole described in

subdivision (3) may be counted as a vote for a candidate or on a public question.

(g) (b) This subsection applies to a ballot card that:

- (1) has been cast in a precinct whose votes are being recounted by a local recount commission or the state recount commission;
- (2) is damaged or defective so that it cannot properly be counted by automated tabulating machines; and
- (3) cannot be counted for the office subject to the recount due to the damage or defect.

The ballot card shall be remade only if the conditions in subdivisions (1) through (3) exist."

Page 19, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 84. IC 3-12-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. After each electronic voting system has been secured and the paper vote total printouts obtained, the inspector shall announce in a distinct tone of voice ~~the result of the vote as shown by that~~ the printouts are available for inspection by the members of the precinct election board and any watchers present within the polls. The members and watchers are entitled to inspect and copy the printouts to document the votes cast for:

- (1) each candidate in the order as their offices are arranged on each system; and
- (2) each public question on each system."

Page 28, line 34, reset in roman "on a voting".

Page 28, line 34, after "machine" insert "system".

Page 29, delete lines 30 through 32, begin a new paragraph and insert:

"SECTION 112. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-5-2-21.5; IC 3-11-15-10; IC 3-11-15-11; IC 3-11-15-50; IC 3-11-15-51; IC 3-11-15-52; IC 3-11-15-53; IC 3-11-15-55; IC 3-11-15-56; IC 3-11-15-57; IC 3-11-15-58.

SECTION 113. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 3-5-2-41.5; IC 3-5-2-41.6; IC 3-5-2-50.6; IC 3-11-3-2; IC 3-11-3-6; IC 3-11-5; IC 3-11-7.5-20; IC 3-11-12; IC 3-11-13-20; IC 3-12-2.5.

SECTION 114. [EFFECTIVE UPON PASSAGE] (a) The

1 definitions set forth in IC 3-5-2 apply to this SECTION.

2 (b) To perform the duties set forth in IC 3-11-16, as added by
3 this act, in establishing the voting system technical oversight
4 program, the secretary of state shall issue a request for proposals
5 to enter into the contract required under IC 3-11-16-3.

6 (c) Notwithstanding any other statute or rule:

7 (1) the secretary of state shall extend invitations to public and
8 private colleges and universities located within Indiana to
9 respond to the request for proposals not later than June 1,
10 2005; and

11 (2) the secretary of state and the person selected by the
12 secretary of state shall enter into the contract required under
13 IC 3-11-16-3 not later than July 1, 2005.

14 (d) This SECTION expires December 31, 2005.

15 SECTION 115. [EFFECTIVE UPON PASSAGE] (a) The
16 definitions set forth in IC 3-5-2 apply to this SECTION.

17 (b) This SECTION applies to a county:

18 (1) that used a punch card ballot voting system to conduct the
19 November 2, 2004, general election in any precinct in the
20 county; and

21 (2) whose county executive, before July 1, 2005, has not
22 entered into a contract that complies with this SECTION.

23 (c) To comply with this SECTION, a contract that a county
24 executive enters into must require a voting system vendor to
25 deliver, not later than December 31, 2005:

26 (1) an electronic voting system;

27 (2) an optical scan ballot voting system; or

28 (3) a combination of both systems;

29 certified for installation, marketing, and use in Indiana on the
30 effective date of the contract.

31 (d) If a county described in subsection (b) fails to enter into a
32 contract that complies with subsection (c) before July 1, 2005, the
33 secretary of state may enter into a quantity purchase agreement
34 with a voting system vendor for the purchase of:

35 (1) an electronic voting system;

36 (2) an optical scan ballot voting system; or

37 (3) a combination of both systems;

38 that is certified for installation, marketing, and use in Indiana on

- 1 **the effective date of the contract.**
- 2 **(e) The agreement described in subsection (d) must require the**
- 3 **delivery of the voting system to each county described in this**
- 4 **SECTION before January 1, 2006, for use in all elections**
- 5 **conducted in the county after December 31, 2005.**
- 6 **(f) This SECTION expires December 31, 2006.**
- 7 **SECTION 116. An emergency is declared for this act."**
- 8 Renumber all SECTIONS consecutively.
- (Reference is to HB 1407 as printed February 9, 2005.),

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 1.

Lawson C

Chairperson